



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON

MAR 1 6 1927

A-1726.

The Honorable

The Secretary of Agriculture.

Sir:

By letter of February 1, 1927, you requested decision of a question presented as follows:

"The Act of May 11, 1926, (44 Stat. 499, et page 526), making appropriations for this Department, under the heading Federal Horticultural Board, contains the following item:

"To enable the Secretary of Agriculture to meet the emergency caused by the existence of the pink bollworm of cotton in Mexico, and to prevent the establishment of such insect in the United States by the employment of all means necessary, including rent outside the District of Columbia and the employment of persons and means in the city of Washington and elsewhere, \$300,000 \*\*\*"

"In furtherance of the objects contemplated by the above appropriation, the Federal Horticultural Board has recently purchased a vacuum fumigation tank for the fumigation of bale cotton at El Paso, Texas, for conducting a series of experiments to determine conditions which influence the results in fumigating highly compressed bales of cotton which may contain seed infested with the pink bollworm.

"The tank in question is 6 feet in diameter; 7 feet long; equipped with hinge doors; complete with track and track supports for accommodating a standard truck loaded with a bale of cotton weighing approximately 600 pounds. As there is no available space in the temporary railroad car fumigation house at El Paso, it has been found necessary to erect a temporary addition to the present fumigation house, to provide for this equipment. The approximate dimensions of this temporary addition are as follows: 30 feet long, 14 feet wide, 13 feet high at side to be attached to fumigation house, 10 feet high at lower end and 20 feet wide; the floor to be of concrete of sufficient thickness to support a vacuum chamber weighing approximately 5,000 pounds and to make a permanent base for track running from chamber to outside of house. The addition

is to be so situated that the brick wall of the present fumigation house can be used as the high side of the addition. The three outside walls are to be of wood frame construction, covered on the outside with weather boarding and the roof to be supported by rafters and to be covered with three-ply roofing. Bids have been let for this addition and the lowest bid received is in the amount of \$740.00.

"As the use of this vacuum fumigation tank is the only means of determining whether the fumigation of bale cotton infected with pink bollworm is practicable and as the present fumigation house is too small to provide for the installation of this fumigator, your delegation is requested whether the funds made available by the item of appropriation above quoted may be used for the erection of a temporary addition to house this fumigation equipment."

In answer to a request for further information relative to the proposed structure, you advised this office by letter of March 10, 1927, as follows:

"There is but one fumigation house at this point and it is the property of the United States. The ground upon which it stands is leased from the Rio Grande, El Paso & Santa Fe Railroad Company. The agreement is dated June 14, 1920, and runs to June 30, 1930, without a renewal provision. It permits the government to erect buildings on the premises, but requires their removal at the termination of the lease.

"The fumigation house was built in 1920 under the appropriation for eradication of the Pink Bollworm in the Agricultural Act for the fiscal year 1920, Act of July 24, 1919, 41 Stat. 234, 260. This broadly authorizes the Secretary of Agriculture "to prevent the establishment of such insects in the United States by the employment of all means necessary \*\*\*." A fumigation building at El Paso was deemed an essential measure of prevention, and since it was a temporary structure no obstacle to its erection was seen in Section 3733 R.C. The essentially temporary character of the building is attested by the fact that as above stated it was put up on land leased for a term under a stipulation for removal. \*\*\*"

In view of the facts now disclosed and the representations made by you, I have to advise that the appropriation in question is available for the construction of the proposed temporary shed and that

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the use of said appropriation for such construction will not be  
in contravention of the provisions of section 3733, Revised  
Statutes, 26 Comp. Sec. 889.

Respectfully,

(Signed) J. R. Mount

Comptroller General  
of the United States.

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A temporary shed designed and to be used for the sole purpose of carrying on investigations authorized by an appropriation act, to be erected on leased premises, the lease providing for the removal of such building at the expiration of the lease, is not to be considered as a public building or public improvement within the inhibition of section 3733, Revised Statutes, and the cost of such building is chargeable to the general appropriations made for carrying on such investigations.